

Utah Noxious Weed Act (Chapter 17)

4-17-1. Short title.

This chapter shall be known and may be cited as the "Utah Noxious Weed Act."

4-17-2. Definitions.

As used in this chapter:

- (1) "Commission" means the county legislative body of the counties of this state.
- (2) "Commissioner" means the commissioner of agriculture and food or the commissioner's representative.
- (3) "County noxious weed" means any plant which is not on the state noxious weed list, is especially troublesome in a particular county, and is declared by the county legislative body to be a noxious weed within its county.
- (4) "Noxious weed" means any plant the commissioner determines to be especially injurious to public health, crops, livestock, land, or other property.

4-17-3. Commissioner -- Functions, powers, and duties.

The commissioner has the following powers and duties:

- (1) investigates and designates noxious weeds on a statewide basis;
- (2) compiles and publishes annually a list of statewide noxious weeds;
- (3) coordinates and assists in inter-county noxious weed enforcement activities;
- (4) determines whether each county complies with this chapter;
- (5) assists a county which fails to carry out the provisions of this chapter in its implementation of a weed control program;
- (6) prescribes the form and general substantive content of notices to the public and to individuals concerning the prevention and control of noxious weeds;
- (7) compiles and publishes a list of articles capable of disseminating noxious weeds or seeds and designate treatment to prevent dissemination; and
- (8) regulates the flow of contaminated articles into the state and between counties to prevent the dissemination of noxious weeds or seeds.

4-17-3.5. Creation of State Weed Committee -- Membership -- Powers and duties -- Expenses.

(1) There is created a State Weed Committee composed of five members, one member representing each of the following:

- (a) the Department of Agriculture and Food;
- (b) the Utah State University Agricultural Experiment Station;
- (c) the Utah State University Extension Service;
- (d) the Utah Association of Counties; and
- (e) private agricultural industry.

(2) The commissioner shall select the members of the committee from those nominated by each of the respective groups or agencies following approval by the Agricultural Advisory Board.

(3) (a) Except as required by Subsection (b), as terms of current committee members expire, the commissioner shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(4) (a) Members may be removed by the commissioner for cause.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) The State Weed Committee shall:

(a) confer and advise on matters pertaining to the planning, implementation, and administration of the state noxious weed program;

(b) recommend names for membership on the committee; and

(c) serve as members of the executive committee of the Utah Weed Control Association.

(6) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections **63A-3-106** and **63A-3-107**.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the committee at the rates established by the Division of Finance under Sections **63A-3-106** and **63A-3-107**.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) (i) Higher education members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties from the committee at the rates established by the Division of Finance under Sections **63A-3-106** and **63A-3-107**.

(ii) Higher education members may decline to receive per diem and expenses for their service.

(d) (i) Local government members who do not receive salary, per diem, or expenses from

the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections **63A-3-106** and **63A-3-107**.

(ii) Local government members may decline to receive per diem and expenses for their service.

4-17-4. County Weed Control Board -- Appointment -- Composition -- Terms -- Removal -- Compensation.

(1) Each county executive of the counties may, with the advice and consent of the county legislative body, appoint a county weed control board comprised of not less than three nor more than five appointed members.

(2) (a) If the county legislative body is the county commission, the chair of the county

legislative body shall appoint one member of the county legislative body who shall act as a coordinator between the county and the weed board.

(b) If the county legislative body is a county council, the county executive shall serve on the county weed control board and act as coordinator between the county and the weed board.

(3) Two members of the board shall be farmers or ranchers whose primary source of income is derived from production agriculture.

(4) Members are appointed to four year terms of office and serve with or without compensation as determined by each county legislative body.

(5) Members may be removed for cause and any vacancy which occurs on a county weed control board shall be filled by appointment for the unexpired term of the vacated member.

4-17-4.5. Commissioner may require county weed control board to justify failure to enforce provisions.

If the commissioner determines that the weed control board of any county has failed to perform its duties under this chapter, the commissioner may require the board to justify, in writing, its failure to enforce these provisions within its county.

4-17-5. County weed control board responsible for control of noxious weeds - Cooperation with other county boards -- Authority to designate noxious weed -- Public hearing before removal of noxious weed from state list.

(1) A county weed control board is responsible, under the general direction of the county executive, for the formulation and implementation of a county-wide coordinated noxious weed control program designed to prevent and control noxious weeds within its county.

(2) A county weed control board is required, under the general direction of its commission, to cooperate with other county weed control boards to prevent and control the spread of noxious weeds.

(3) A county legislative body may declare a particular weed or competitive plant, not appearing on the state noxious weed list, a county noxious weed within its county, or the county executive, with the approval of the county legislative body, may petition the commissioner for removal of a particular noxious weed from the state noxious weed list. The county legislative body may not approve a petition of the county executive to the commissioner to remove a noxious weed unless it has first conducted a public hearing after due notice.

4-17-6. Weed control supervisor -- Qualification -- Appointment -- Duties.

Each commission may employ one or more weed control supervisors qualified to detect and treat noxious weeds and to direct the weed control program for the county weed board. A person may be a weed control supervisor for more than one county weed board. Terms and conditions of employment shall be prescribed by the commission.

It is the duty of every supervisor, under the direction of the local county weed control board, to examine all land under the jurisdiction of the county weed control board to determine whether this chapter and the regulations of the commissioner have been met, to compile data on infested areas, to consult and advise upon matters pertaining to the best

and most practical method of noxious weed control and prevention, to render assistance and direction for the most effective control and prevention, to investigate violations of this chapter, to enforce noxious weed controls within the county, and to perform any other duties required by the county weed control board.

4-17-7. Notice of noxious weeds to be published annually in county -- Notice to particular property owners to control noxious weeds -- Methods of prevention or control specified -- Failure to control noxious weeds considered public nuisance.

(1) Each county weed control board before May 1 of each year shall post a general notice of the noxious weeds within the county in at least three public places within the county and publish the same notice on at least three occasions in a newspaper or other publication of general circulation within the county.

(2) If the county weed control board determines that particular property within the county requires prompt and definite attention to prevent or control noxious weeds, it shall serve the owner or the person in possession of the property, personally or by certified mail, a notice specifying when and what action should be taken on the property. Methods of prevention or control may include definite systems of tillage, cropping, use of chemicals, and use of livestock.

(3) An owner or person in possession of property who fails to take action to control or prevent the spread of noxious weeds as specified in the notice is maintaining a public nuisance.

4-17-8. Noxious weeds -- Failure to control after notice a nuisance -- Notice and hearing -- Control at county expense -- Owner liable for county costs -- Charges lien against property.

(1) If the owner or person in possession of the property fails to take action to control or prevent the spread of noxious weeds within five working days after the property is declared a public nuisance, the county may, after reasonable notification, enter the property, without the consent of the owner or the person in possession, and perform any work necessary, consistent with sound weed prevention and control practices, to control the weeds.

(2) Any expense incurred by the county in controlling the noxious weeds is paid by the property owner of record or the person in possession of the property, as the case may be, within 90 days after receipt of the charges incurred by the county. If not paid within 90 days after notice of the charges, the charges become a lien against the property and are collectible by the county treasurer at the time general property taxes are collected.

4-17-8.5. Hearing before county weed control board -- Appeal of decision to the county legislative body -- Judicial review.

(1) Any person served with notice to control noxious weeds may request a hearing to appeal the terms of the notice before the county weed control board within 10 days of receipt of such notice and may appeal the decision of the county weed control board to the county legislative body.

(2) Any person served with notice to control noxious weeds who has had a hearing before both the county weed control board and the county legislative body may further appeal the decision of the county legislative body by filing written notice of appeal with a

court of competent jurisdiction.

4-17-10. Jurisdiction of state and local agencies to control weeds.

The departments or agencies of state and local governments shall develop, implement, and pursue an effective program for the control and containment of noxious weeds on all lands under their control or jurisdiction, including highways, roadways, rights-of-way, easements, game management areas, and state parks and recreation areas.

4-17-11. County noxious weed control fund authorized.

Authority is hereby granted commissions to establish and maintain a noxious weed control fund in each county for use in the administration of this chapter.